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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,916

08/26/2003

Joachim Tiemann

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7590

04/10/2008

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

04/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,916	<b>Applicant(s)</b> TIEMANN ET AL.	
	<b>Examiner</b> BASIL KATCHEVES	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,22-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,22-26,28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/23/07</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 5, 22-26, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,579,486 to Damico as in the previous action.**

Regarding claims 1, 28 and 29, Damico discloses a dowel (fig. 1) having a pressing plate (12) and a dowel sleeve (10) attached to the plate for taking up an expansion element (2), an expansion element head (12), the sleeve having an expansion zone, the plate having a single planar lower side (underneath 12) with cutting elements (8) extending from the outer circumference of the plate, the cutting elements curved along the circumference of the plate.

Regarding claim 2, Damico discloses the plate (12) as having a shaft (16), wherein the shaft (16) and sleeve (10) can be axially shifted against each other.

Regarding claim 4, Damico discloses the plate (12) as having an engagement device (6) in which the expansion element (2) can engage.

Regarding claims 5 and 26, Damico discloses the dowel sleeve (fig. 1) as having an anti twist device (22).

Regarding claims 22 and 23, Damico discloses the pressing plate as having a recess (18) for the engagement of a drive (20). Applicant should note that all components of figure 1 are attached in the final form of the Dowel.

Regarding claims 24 and 25, Damico discloses the pressing plate (12) as having an engagement device (14) which the expansion element (2) engages. Applicant should note that all components of figure 1 are attached in the final form of the Dowel.

### **Response to Arguments**

Applicant's arguments filed 11/23/07 have been fully considered but they are not persuasive. The applicant argues that the prior art (Damico) does not teach a dowel as claimed by the applicant. However, the applicant should note that a dowel, as generally defined by Webster's is a pin shaped piece. In addition, the applicant should note that the structural limitations of the claim, with respect to the claimed dowel, are met by the prior art as described in the rejection above. The applicant argues the intended function of the instant application against the intended function of the prior art. The applicant should note that the claimed limitations are met and therefore is inherently capable of performing in such a manner as that claimed by the applicant. The applicant also argues the structural differences between the prior art and the claimed subject matter of the application. However, the structural limitations in the applicant's claims are broad and refer in general terms to most of the structural components.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635